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THE NAVAJO NATION

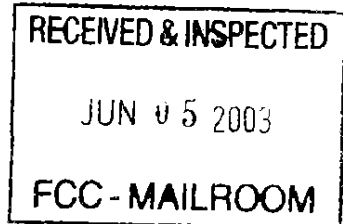
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May 30, 2003

Federal Communications Commission
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WT Docket No. 99-266; FCC 03-51

The Navajo Nation Telecommunication Regulatory Commission (NNTRC) submits comments on the Federal Communication Commission's (FCC) proposed rulemaking to Extend Wireless Telecommunication to Tribal Lands, as outlined in the Federal Register Vol. 68, No. 85, Friday, May 2, 2003 announcement.

NNTRC has been authorized by the Navajo Nation Council to regulate any and all matters of the telecommunications industry on the Navajo Nation, including but not limited to television, telegraph, radio, cable television, satellite, two-radio, and other related telecommunication services transmitted by electricity, wire or radiowave, to provide for the orderly development of the telecommunications industry, and the operations thereby.

The Navajo Nation is the largest and most populous Native American nation in the United States. With nearly 300,000 people, the Navajo land base spans an area about the size of West Virginia (27,000 square miles) in Arizona, New Mexico and Utah. In addition, the Navajo Nation experiences an annual tourist influx of 11 million. Much of the Navajo Nation is extremely remote and isolated and lacks even basic wireline telecommunications not to mention wireless telecommunications.

Modifying the Construction Requirements of Tribal Lands Bidding Credit

There are circumstances on Navajo Nation where the remoteness, low population density, rough terrain, or other factors negatively affect the ability of wireless carriers to provide the requisite coverage in those areas.

The terrain of the Navajo Nation will affect the amount of wireless towers that will be required. The terrain comprises everything from desert to butted cayonlands, many of which are considered traditional cultural use properties and therefore off limits to tower construction. In addition, distances between towers will be affected over the entire Navajo Nation due to the alpine tundra and mountainous typography that comprises much of the remainder of the Navajo Nation. NNTRC estimates that it will take between 125 to 150 towers to cover the entire Nation depending on what type of technology (CDMA or TDMA) is used. Major impacts to wireless service will be felt along the Chuska and Fort Defiance mountain ranges to Interstate-40 (the major north/south corridor with the most population centers on the Nation).

In spite of this, NNTRC believes there are no circumstances on the Navajo Nation that merit easing or modification of construction requirements, nor should the population of the qualifying tribal land covered by the wireless carrier be reduced to a number below 75 percent. Furthermore, NNTRC believes that the seventy-five (75) percent coverage can be achieved by following the main road routes.

- U. S. Highway 666 from Gallup, New Mexico to Ft. Defiance, Arizona.
- U. S. Highway 89 from Gray Mountain, Arizona to Page, Arizona.
- U. S. Highway 666 from YA-TA-HEY, New Mexico to Shiprock, New Mexico.
- U. S. Highway 160 from Tuba City, Arizona to Teec Nos Pos, Arizona and U. S. Highway 64 from Teec Nos Pos, Arizona to Shiprock, New Mexico.
- Arizona Highway 264 from Window Rock, Arizona to Ganado, Arizona.
- U. S. Highway 191 from Ganado, Arizona to Mexican Water, Arizona.
- SR-9 from U. S. Hwy 666 to Crownpoint, New Mexico.
- Page to Kayenta Navajo route 98
- Mexican Hat to Aneth Highway 163
- Flagstaff to Leupp to Bitihochee Navajo Route 5

The time period in which the wireless carrier provides coverage to 75 percent of the population should not be extended to a construction period longer than three years. If the wireless carrier follows the seven main routes (listed above) on the Navajo Nation the seventy-five percent coverage will be achieved within the three-year time period.

Although reduced population coverage should apply in the outlying remote and isolated areas of the Navajo Nation that reduced population coverage should not be considered in combination with an expanded construction period.

Service-By-Service methods will be helpful if the Navajo Nation's wireless carrier would agree to provide Wireless Local Loop for basic and advanced telephony services.

Increasing the Bidding Credit Limit

The existing tribal lands bidding credit is not effective in encouraging wireless carriers to provide service in tribal areas because the wireless carriers only concentrate on high population areas within tribal lands where the largest amount of profit lies. The town and business centers are served but not the outlying areas with smaller populations. The FCC must maintain incentives for remote and isolated areas within tribal lands.

The bidding credit amount and methodology should be modified to provide a greater incentive for wireless carriers to deploy facilities on tribal lands. A credit and/or methodology should be added for services such as Wireless Local Loop and other broadband services. A credit and/or methodology should be added for deployment to remote and isolated areas within tribal lands.

Adjustment of the Biding Credit based on 2000 Census Data

The FCC should use the updated Census 2000 figures now available regarding tribal telephone service penetration rates to modify certain aspects of the bidding credit as long as the FCC has certified that all households/people in the tribal service area have been counted. To certify an accurate count, the FCC should compare the updated Census 2000 figures to the tribal census. Tribal census numbers have a greater reliability and are usually a more accurate assessment measurement for service delivery.

The FCC should adjust the credit formula to require the use of Census 2000 figures instead of Census 1990 figures in calculating tribal penetration rates to determine eligibility for the credit. This approach would help to entice the larger carriers to locate on the Navajo Nation, because as the Census 2000 numbers show the population on Navajo is growing.

To the extent that Census 2000 figures indicate that penetration rates in some tribal areas exceed 70 percent but remain below the national average, the FCC modify the bidding credit so that tribal areas with better than 70 percent penetration but still below the national average remain eligible for the credit, because NNTRC believes that such an adjustment would peek the interest of more and larger wireless carriers by creating additional and more targeted incentives (increased population and increased potential revenue) for wireless carriers to provide services in such areas

Extending the Tribal Lands Bidding Credit to Adjacent Non-Tribal Areas with low Penetration Rates

The FCC should allow a limited expansion of the tribal lands bidding credit program that would allow wireless carriers who obtain bidding credits in order to serve qualifying tribal lands to seek additional credit for extending their coverage to immediately adjacent non-tribal areas that have comparably low penetration rates. Such a limited expansion should allow the wireless carriers access to more revenue and should increase competition. Such an expansion would also allow for service to remote and isolated Navajo Chapters - the political subdivisions of the Nation.

The FCC should give those applicants who commit to serve a qualifying tribal area the ability to augment the bidding credit for also serving adjacent non-tribal areas. The NNTRC believes that such ability to augment the bidding credit will increase the amount of bidders and increase competition.

In the event that the FCC does extend the bidding credit to non-tribal areas, the FCC should define the geographic areas that would trigger eligibility for an additional credit amount between twenty (20) and thirty (30) miles around the exterior boundaries of the Navajo Nation. This extension would cover most of the Navajo people who live just outside the Navajo Nation tribal lands. This extension should also allow for increased revenue and competition between the wireless carriers and would serve the purpose of extending telecommunication service to tribal people.

The FCC can accurately target the non-tribal areas that share the same characteristics of tribal lands and are thus appropriate for support through bidding credits by looking at the Census 2000 population data and comparing that to the tribal population data. Tribal registration of the Navajo people residing off the Navajo Nation, and within the extended twenty (20) to thirty (30) mile geographic service area, will show where the tribal residents are residing. The Census 2000 will show bordering community populations and where both the tribal and non-tribal residents are residing.

The FCC can distinguish between urban/highly-populated areas with high telephone penetration rates and those that have characteristics warranting support by comparing the amount of households served by the local exchange carrier for residential use with the amount of existing households surveyed on the Census 2000. Such a comparison could provide a methodology to distinguish highly populated service areas (a highly populated service area on tribal land may not fall under the federal definition of an "urban area,") from isolated and remote areas of tribal lands, which would warrant modification of the bidding credit program.

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